

**ENGINEERING AND RELATED SERVICES
MAY 13, 2011**

**CONTRACT NO. 4400001137
RETAINER CONTRACT FOR DOTD REST AREA DESIGN,
RENOVATION AND UPGRADE
STATEWIDE**

Under Authority granted by Title 48 of Louisiana Revised Statutes, the Louisiana Department of Transportation and Development (DOTD) hereby issues a Request for Qualification Statements (RFQ) on Standard Form 24-102 (SF 24-102), "Professional Engineering and Related Services", revised January 2003, from Consulting Firms (Consultant) to provide engineering and related services. **All requirements of Louisiana Professional Engineering and Land Surveying (LAPELS) Board must be met at the time of submittal.** One Prime-Consultant/Sub-Consultant(s) (Consultant/Team) will be selected for this Contract.

Project Manager – Mr. Andrew Sanders

All inquiries concerning this advertisement should be sent in writing to Debbie.Guest@LA.gov.

PROJECT DESCRIPTION

The selected Consultant will perform design and related services for statewide projects covered by a Retainer Contract under separate Task Orders. Initially, the Consultant will be responsible for the design of any new rest areas and for the design of upgrades or renovations for existing rest areas statewide. The work will include maximizing parking, reconfiguring ramps, restroom buildings, storage buildings, sidewalks, picnic pavilions, irrigation and landscape. The Consultant will be responsible for developing final Bid Documents and Working Drawings (Plans and Specifications), and other applicable documents for submission to the Louisiana Division of Administration, Office of Facility and Planning Database, and the Office of the State Fire Marshall for approval. The Consultant will be required to execute a Task Order which will specify the scope of services, contract time, and compensation. Each Task Order will become a part of the Retainer Contract.

SCOPE OF SERVICES

The services to be rendered for this Retainer Contract shall consist of, but not limited to the following:

1. Procure the topographic survey and geotechnical report as needed for design of the proposed rest area. Tasks will include design of: new parking facilities, parking facility drainage, interstate ramp extensions, drainage structure

- modifications, outer plaza area (adjacent to the restroom buildings), site grading, drainage, pedestrian walkways, and exterior lighting.
2. Assist DOTD in a Preliminary Design Review Meeting with the Louisiana State Fire Marshall.
 3. Provide all final drawings in an acceptable format for submission to the Office of Facility and Planning, the Louisiana State Marshall, and the Department of Health and Hospitals.
 4. Provide a weekly progress report to the DOTD Project Manager unless otherwise specified in writing.

Note: All deliverables/submittals will become property of the DOTD.

A. Phase 1: Preliminary Design

- 1) Execute Task Order (TO)
- 2) Perform site inspection and consult with appropriate La DOTD Headquarters and District personnel to develop a scope for the project.
- 3) Develop a proposal and cost estimate for the project.
- 4) Submit the proposal and cost estimate to the Facilities and Landscape Maintenance Architect for approval.

B. Phase 3: Final Plans

- 1) Prepare contract plans, specifications, and special provisions.
- 2) Prepare any necessary permitting and code compliance documents and forms required for the approval of governmental authorities having jurisdiction over the Project.
- 3) Standard sheet size ("22 x 34"), reduction to "11 x 17" legible.
- 4) Plans and Specifications in accordance with Louisiana Standard Specifications for Roads and Bridges including all current, applicable Supplemental Specifications and Special Provisions as amended for DOTD Architectural Projects.
- 5) Written Specifications (in accordance with the 2006 Louisiana Standard Specifications for Road and Bridges will be compatible with Facility Planning and Control Guidelines.

C. Phase 4: Construction Engineering Services

- 1) Review/approve submittals and shop drawings.
- 2) Visit project site as required to check construction for conformity with the contract.

ADDITIONAL SERVICES

The consultant will be required to obtain all necessary surveys and geotechnical information (soil borings, lab data, report) for the projects described above.

ITEMS PROVIDED BY DOTD

As-built drawings of existing buildings if available.

REFERENCES

The selected Consultant shall adhere to the following codes and standards in addition to any other applicable federal, state, or local codes. The Consultant shall check which editions of the codes and standards have been adopted by the state of Louisiana at the time of the design.

- A. Louisiana Standard Specifications for Roads and Bridges, 2006 edition.
- B. ICC Building Code (IBC)
- C. National Fire Protection Association
 - 1) NFPA 101 - Life Safety Code
 - 2) NFPA 30 - Flammable and Combustible Liquids Code
 - 3) NFPA 33 - Paint Spray Rooms and Booths
 - 4) NFPA 54 - National Fuel Gas Code
 - 5) NFPA 58 - Liquefied Petroleum Gas Code
 - 6) NFPA 88A - Parking Structures
 - 7) NFPA 88B - Repair Garages
- D. Americans with Disabilities Act - Accessibility Guidelines (ADA-AG), September 2010
- E. Applicable ANSI Standards
- F. AASHTO Standards, ASTM Standards or DOTD Test Procedures
- G. DOTD Location and Survey Manual
- H. DOTD Roadway Design Procedures and Details
- I. DOTD Hydraulics Manual
- J. DOTD Standard Specifications for Roads and Bridges
- K. Manual of Uniform Traffic Control Devices
- L. DOTD Traffic Signal Design Manual
- M. National Environmental Policy Act (NEPA)
- N. DOTD Environmental Impact Procedures (Vols. I-III)
- O. Policy on Geometric Design of Highways and Streets
- P. Construction Contract Administration Manual
- Q. Materials Sampling Manual
- R. DOTD Bridge Design Manual
- S. Consultant Contract Services Manual
- T. Geotechnical Engineering Services Document
- U. Bridge Inspectors Reference Manual
- V. DOTD Stage 1 Manual of Standard Practice

COMPENSATION

Compensation to the Consultant for services rendered in connection with each TO shall be made on the basis of negotiated lump sum compensation or funds Available for Construction (AFC) amount in accordance with the procedures described in the latest edition of the DOTD Architectural Procedures Manual (Attachment "A"), prior to each TO being issued.

The amount payable under this Retainer Contract for services to be performed under the various TO's shall not exceed a maximum of **\$2,000,000**. Each TO shall be payable under the respective TO project number which shall be obtained by the Project Manager.

CONTRACT TIME AND NOTICE TO PROCEED

This Retainer Contract shall be in effect for the duration of **three years**. The services to be performed for each Task Order (TO) will be determined prior to the execution of the TO. The Consultant will proceed with the services required in the TO upon issuance of the Notice to Proceed from the DOTD. The contract time for each TO, will be specified in the executed TO. Any TO in effect, prior to the expiration date of the Retainer Contract shall be completed.

ELECTRONIC DELIVERABLES

The Consultant hereby agrees to produce electronic deliverables in conformance with "DOTD Software and Deliverable Standards for Electronic Plans" as outlined at http://www.dotd.louisiana.gov/highways/project_devel/design/electronic_standards_disclaimer.asp. The Consultant shall download and apply the latest CAD standards. The Consultant hereby agrees to install incremental updates to software and CAD standards as instructed by the Project Manager. Such updates will not have a significant impact on the development time or delivery date for project plans, or require the Consultant to purchase additional software. Prior to proceeding with plan development, the Consultant shall contact the Project Manager for any special instructions regarding updates to standards or project-specific requirements if this information has not already been provided.

In the event that any electronic standard conflicts with written documentation, including DOTD plan-development manuals, the electronic standard typically governs. The Consultant is responsible for contacting the Project Manager should questions arise.

Plan deliveries shall be made on CD or DVD media and labeled with media-compatible indelible ink on separate lines as follows:

State Project Number

"Final Plans Submittal", "60% ACP Submittal" (or other milestone)

"Electronic Deliverables"

Consultant Firm Name

The CD/DVD shall be delivered with a signed cover letter that includes, among the formalities, a deliverable "hash" code that is documented in a report generated by the ControlCAD Indexer Submittal tool. The hash code is used to verify that the CD is authentic. At any stage of the plan development process, the Project Manager may require plan delivery by other methods including, but not limited to, upload to the DOTD ProjectWise repository.

The prime Consultant is responsible for ensuring that Sub-Consultants are prepared to produce electronic deliverables in conformance with DOTD electronic standards for plans.

QUALITY CONTROL/QUALITY ASSURANCE

The DOTD requires the Consultant to develop a Quality Control/Quality Assurance program or adopt DOTD's program; in order to provide a mechanism by which all construction plans can be subject to a systematic and consistent review. Consultant's must ensure quality and adhere to established design policies, procedures, standards and guidelines in the preparation and review of all design products. The DOTD shall provide limited input and technical assistance to the Consultant. The Consultant's plans shall meet or exceed DOTD's Construction Plans Quality Control / Quality Assurance Manual and EDSM No. Volume I. 1.1.24 on Plan Quality. The Consultant shall transmit plans with a DOTD Quality Control/Quality Assurance Checklist, Documentation Manual for Project Delivery, and a certification that the plans meet the DOTD's quality standards.

MINIMUM PERSONNEL REQUIREMENTS

The following requirements must be met at the time of submittal:

1. At least one (1) principle of the selected Consultant firm must be a Professional Engineer licensed in the state of Louisiana.
2. At least one principal or other responsible member of the Prime-Consultant must be a Professional Civil Engineer registered in the State of Louisiana, with a minimum of five years experience in the design and construction administration of structural systems for commercial structures.
3. The Prime Consultant must employ, or provide through the use of Sub-consultants, professionals registered in the following fields, each with a minimum of 5 years experience in the respective field :
 - a) Electrical Engineering
 - b) Geotechnical Engineering
 - c) Mechanical Engineering
 - d) Structural Engineering
 - e) Civil Engineer
 - f) Architecture
 - g) Landscape Architecture, and
 - h) Surveying

EVALUATION CRITERIA

The general criteria to be used by DOTD (when applicable) in evaluating responses for the selection of a Consultant to perform these services are:

1. Consultant's firm experience on similar projects, weighting factor of 3;
2. Consultant's personnel experience on similar projects, weighting factor of 4;
3. Consultant's firm size as related to the estimated project cost, weighting factor of 3;
4. Consultant's past performance on similar DOTD projects, weighting factor of 6;*
5. Consultant's current work load, weighting factor of 5;
6. Location where the work will be performed, weighting factor of 4. *

*All respondents will receive a 4 for this category.

Complexity level (simple)

Consultants will be evaluated as indicated in Items 1- 6. The evaluation will be by means of a point-based rating system. Each of the above criteria will receive a rating on a scale of 0-4. Then the rating will be multiplied by the corresponding weighting factor. The firm's ratings in each category will then be added to arrive at the Consultant's final rating.

If Sub-Consultants are used, the Prime Consultant must perform a minimum of 51% of the work for the overall project. Each member of the Consultant/Team will be evaluated on their part of the contract, proportional to the amount of their work. The individual team member ratings will then be added to arrive at the Consultant/Team rating.

Communication Protocol

DOTD's Project Evaluation Team will be responsible for performing the above described evaluation, and will present a short-list of the three (if three are qualified) highest rated Consultants to the Secretary of the DOTD. The Secretary will make the final selection. **Below are the proposed Team members. DOTD may substitute for any reason provided the members meet the requirements of R.S. 48:291.**

1. Debbie Guest – Ex officio
2. Andrew Sanders – Project Manager
3. Scott Guinn
4. Brett Brabham
5. Joseph Douglas
6. Jeremy Jones

Rules of Contact (Title 48 Engineering and Related Services)

These rules are designed to promote a fair, unbiased, legally defensible selection process. The LA DOTD is the single source of information regarding the Contract selection. The following rules of contact will apply during the Contract selection process and will commence on the date of advertisement and cease at the contract execution by the selected firm. Contact includes face-to-face, telephone, facsimile, Electronic-mail (E-mail), or formal written communications. Any contact determined to be improper, at the sole discretion of the LA DOTD, may result in the rejection of the submittal (SF 24-102):

- A. The Consultant shall correspond with the LA DOTD regarding this advertisement only through the LA DOTD Consultant Contracts Services Administrator;
- B. The Consultant, nor any other party on behalf of the Consultant, shall not contact any LA DOTD employees, including but not limited to, department heads; members of the evaluation teams; and any official who may

participate in the decision to award the contract resulting from this advertisement except through the process identified above. Contact between Consultant organizations and LA DOTD employees is allowed during LA DOTD sponsored one-on-one meetings;

- C. Any communication determined to be improper, at the sole discretion of the LA DOTD, may result in the rejection of submittal, at the sole discretion of the LA DOTD;
- D. Any official information regarding the project will be disseminated from the LA DOTD'S designated representative on the LA DOTD website. Any official correspondence will be in writing;
- E. The LA DOTD will not be responsible for any verbal exchange or any other information or exchange that occurs outside the official process specified herein.

By submission of a response to this RFQ, the Consultant agrees to the communication protocol herein.

CONTRACT REQUIREMENTS

The selected Consultant will be required to execute the contract within 10 days after receipt of the contract.

INSURANCE - During the term of this contract, the Consultant will carry professional liability insurance in the amount of \$1,000,000. This insurance will be written on a "claims-made" basis. Prior to executing the contract, the Consultant will provide a Certificate of Insurance to DOTD showing evidence of such professional liability insurance.

AUDIT - The selected Consultant will allow the DOTD Audit Section to perform an annual overhead audit of their books, or provide an *independent* Certified Public Accountant (CPA) audited overhead rate. This rate must be developed using Federal Acquisition Regulations (FAR) and guidelines provided by the DOTD Audit Section. In addition, the Consultant will submit semi-annual labor rate information, when requested by DOTD.

The selected Consultant will maintain, an approved Project Cost System and segregate direct from indirect cost in their General Ledger. Pre-award and post audits, as well as interim audits, may be required. For audit purposes, the selected Consultant will maintain accounting records for a minimum of five years after final contract payment.

Any Consultant currently under contract with the DOTD and who has not met all the audit requirements documented in the manual and/or notices posted on the DOTD Consultant Contract Services Website (www.dotd.louisiana.gov), will not be considered for this project.

SUBMITTAL REQUIREMENTS

One original (**stamped "original"**) and **five** copies of the SF 24-102 must be submitted to DOTD. All submittals must be in accordance with the requirements of this advertisement and the Consultant Contract Services Manual. Any Consultant/Team failing to submit any of the information required on the SF 24-102, or providing inaccurate information on the SF 24-102, will be considered non-responsive.

Any Sub-Consultants to be used, including Disadvantaged Business Enterprises (DBE), in performance of this Contract, must also submit a SF 24-102, which is completely filled out and contains all information pertinent to the work to be performed.

The Sub-Consultant's SF 24-102 must be firmly bound to the Consultant's SF 24-102. In Section 9, the Consultant's SF 24-102 must describe the **work elements** to be performed by the Sub-Consultant(s), and state the approximate **percentage** of each work element to be subcontracted to each Sub-Consultant.

Name(s) of the Consultant/Team listed on the SF 24-102, must precisely match the name(s) filed with the Louisiana Secretary of State, Corporation Division, and the Louisiana State Board of Registration for Professional Engineers and Land Surveyors.

The SF 24-102 will be identified with **Contract No. 4400001137**, and will be submitted **prior to 3:00 p.m. CST on Tuesday, May 31, 2011**, by hand delivery or mail, addressed to:

Department of Transportation and Development
Attn.: Ms. Debra L. Guest, P.E.
Contracts Administrator
1201 Capitol Access Road, **Room 405-T**
Baton Rouge, LA 70802-4438 or
Telephone: (225) 379-1889

REVISIONS TO THE RFQ

DOTD reserves the right to revise any part of the RFQ by issuing an addendum to the RFQ at any time. Issuance of this RFQ in no way constitutes a commitment by DOTD to award a contract. DOTD reserves the right to accept or reject, in whole or part, all Qualification Statements submitted and/or cancel this announcement if it is determined to be in DOTD's best interest. All materials submitted in response to this announcement become the property of DOTD and selection or rejection of a submittal does not affect this right. DOTD also reserves the right, at its sole discretion, to waive administrative informalities contained in the RFQ.

Attachment A

DOTD ARCHITECTURAL PROCEDURES MANUAL

ADAPTED FROM

**FPC LOUISIANA CAPITAL IMPROVEMENT
PROJECTS PROCEDURE MANUAL FOR
DESIGN AND CONSTRUCTION**

2007

State of Louisiana
Facility Planning & Control

BCI & CPI

FOR
2007

BCI		CPI
1306	1975	53.8
4369	2007	201.6

SCHEDULE OF REPRESENTATIVE FEES

FOR
2007

AFC	Fee as a Percentage of AFC	Fee
\$ 10,000.00	14.8600%	\$ 1,486.00
\$ 50,000.00	12.3700%	\$ 6,185.00
\$ 100,000.00	11.5380%	\$ 11,538.00
\$ 200,000.00	10.8105%	\$ 21,621.00
\$ 500,000.00	9.9792%	\$ 49,896.00
\$ 1,000,000.00	9.4307%	\$ 94,307.00
\$ 2,000,000.00	8.9392%	\$ 178,784.00
\$ 5,000,000.00	8.3631%	\$ 418,154.00
\$ 10,000,000.00	7.9743%	\$ 797,431.00
\$ 20,000,000.00	7.6201%	\$ 1,524,014.00
\$ 50,000,000.00	7.1974%	\$ 3,598,709.00

DOTD ARCHITECTURAL PROCEDURES MANUAL

ARTICLE 1.	CONDITIONS OF THE CONTRACT
ARTICLE 2.	DEFINITIONS
ARTICLE 3.	DOTD-USER AGENCY RESPONSIBILITIES
ARTICLE 4.	CONSTRUCTION BUDGET (AFC)
ARTICLE 5.	COMPENSATION
ARTICLE 6.	PAYMENTS TO THE DESIGNER
ARTICLE 7.	DESIGNER'S SERVICES
ARTICLE 8.	CONTRACT CHANGES
ARTICLE 9.	OWNERSHIP OF DOCUMENTS
ARTICLE 10.	DELAYS AND EXTENSIONS
ARTICLE 11.	PROSECUTION OF WORK
ARTICLE 12.	TERMINATION OR SUSPENSION
ARTICLE 13.	INSURANCE REQUIREMENTS
ARTICLE 14.	QUALITY CONTROL/QUALITY ASSURANCE
ARTICLE 15.	INDEMNITY
ARTICLE 16.	ERRORS AND OMISSIONS
ARTICLE 17.	CLAIMS FOR LIENS
ARTICLE 18.	COMPLIANCE WITH LAWS
ARTICLE 19.	COMPLIANCE WITH CIVIL RIGHTS
ARTICLE 20.	DISPUTES
ARTICLE 21.	PROGRESS INSPECTIONS
ARTICLE 22.	COVENANT AGAINST CONTINGENT FEES
ARTICLE 23.	SUBLETTING, ASSIGNMENT, OR TRANSFER
ARTICLE 24.	DISADVANTAGED BUSINESS ENTERPRISES (DBE) REQUIREMENTS
ARTICLE 25.	COST RECORDS
ARTICLE 26.	ENDORSEMENT OF PLANS
ARTICLE 27.	SUCCESSORS AND ASSIGNS

ARTICLE 28.	TAX RESONSIBILITY
ARTICLE 29.	EXTENT OF AGREEMENT
ARTICLE 30.	GOVERNING LAW
ARTICLE 31.	REFERENCES

ARTICLE 1

CONDITIONS OF THE CONTRACT

- 1.1 The Louisiana Capital Improvement Projects Procedure Manual for Design and Construction, 2006 Edition, herein referred to as the "Procedure Manual" or the "Manual" and any amendments thereto, as published by Facility Planning and Control Department, shall be a part and condition of the Contract between "Owner" and "Designer", herein referred to as the "Contract", to facilitate the design and construction of DOTD projects. The Louisiana Department of Transportation and Development shall include this Manual as part of and a condition of the Contract between the DOTD and Designer.

ARTICLE 2

DEFINITIONS

- 2.1 *The Owner* is the Louisiana Department of Transportation and Development, hereafter referred to as the Department or the DOTD.
- 2.2 *The Designer* is a person or organization professionally qualified and licensed to practice Architecture, Engineering, or Landscape Architecture in accordance with the laws of the State of Louisiana, who is to perform Basic Services for the Project, as named in the Contract.
- 2.3 *Consultants* are individuals or organizations engaged by the Department or the Designer to provide professional consultant services complementing or supplementing the Designer's Services. As applicable, Consultants shall be licensed to practice in accordance with laws of the State of Louisiana. The Department shall engage or have the Designer furnish, as part of the Designer's Services, the services of Consultants which are deemed necessary for the project. Normal Consultants are architects, landscape architects, civil, structural, and mechanical and electrical engineers, etc.; compensation for which is included in Designer's basic fee. Special Consultants are those, other than the above, which the Department may approve, as required for the Project, to perform special services and for which compensation will be in accordance with Article 5.4.
- 2.4 *The Project* is a DOTD Project for which funds are available. Project funds may be State Capital Outlay funds and/or Federal funds made available for this Project through the Federal Highway Administration (FHWA). If this project is to receive Federal funds then applicable Federal rules and regulations apply.
- 2.5 *The Available for Construction (AFC)* is the actual amount of funds available for awarding the construction contract(s).

ARTICLE 3

DOTD-USER AGENCY RESPONSIBILITIES

- 3.1 The DOTD will assign a Project Manager during the design phase and a Project Engineer during the construction phase of the project. The Designer will be notified by DOTD of the name, address, and phone number of their Project Engineer/Manager, in writing prior to receiving bids on the Project.
- 3.2 After selection of the Designer and prior to signing of the Contract, the Department shall furnish to the Designer the Preliminary Program, as described below and a statement of the Available Funds for Construction (AFC).
- 3.3 After the Contract is signed by the Department, the Department shall schedule and hold a Pre-Design Conference at the DOTD's headquarters building in Baton Rouge or other location suitable to the Department. This conference shall be attended by the Designer and representatives of the Department.
 - 3.3.1 The purpose of this conference shall be to initiate a general review and discussion of the Project, including, but not limited to, adopting or confirming the following:
 - (1) The Preliminary Program defining (a) the type of usage, number and sizes of spaces required, (b) adjacency considerations, (c) the type and number of people using the facility and (d) the activities to be held in the facility;
 - (2) The location of the facility, and relevant site information;
 - (3) The Funds Available for Construction (AFC) and the Designer's Compensation;
 - (4) The Time Schedule, outlining anticipated completion dates of designated phases as described in Article 7 hereinafter and the anticipated period of construction. The Time Schedule for planning phases shall commence with the date of the Pre-Design Conference and shall continue until delivery of all construction documents to the Department is complete, coordinated and ready to bid. The number of calendar days in the time schedule shall take into account review periods agreed to between the Designer and Department. Documents will be considered to be "sufficiently complete, coordinated and ready for bid" only if the advertisement for bid can be issued with no further revisions to the documents except minor corrections and/or additions that can be made by addenda. Corrections and/or additions that require reissuing drawings must be approved by DOTD. Design time will not necessarily end at the receipt of the initial Construction Documents Phase submittal to DOTD. Any unreasonable re-submittals required to complete the documents will be included in the design time.

- (5) A detailed review of the latest Instructions to the Designer's will be given to the Designer prior to his signing the Contract, and the compliance with which shall be a part of the Designer's obligation under the Contract, including any revisions made by the Department and agreed to by the Designer. Because the Department has existing Processes and Forms in place, the Department will deviate from the Instructions to Designer's (latest addition, as amended) which is published by the FPC and not use the following portions of that document.

* INSTRUCTIONS

General Instructions to Designers
Instructions on Standard Forms and Specifications

* DESIGNER FORMS

Design Phases Transmittal
Professional Design Services Invoice
Statement of Probable Cost
Bid Tabulation Form
Bid Document Distribution Log
Cost and Construction Data Report

* CONTRACT DOCUMENTS

Advertisement for Bid
Instruction to Bidders
Bid Form Format
Contract between Owner, Contractor, and Performance and Payment Bond
Supplemental Conditions
Change Order Forms
Partial Occupancy Form
Recommendations of Acceptance Form
Building Plaque

- 3.3.2 The Department shall have prepared, at the Department's cost, by a registered land surveyor, a topographical survey of the site including structures, roads, walks, and utilities, when necessary. The Department will conduct or contract for and pay for geotechnical services as described in Article 7.1.1(4) hereinafter. At the Department's request the Designer shall outline the scope of the above services and obtain one or more proposals for each.
- 3.4 The Department shall examine all documents submitted by the Designer and shall render decisions pertaining thereto, to avoid unreasonable delay in the progress of the Designer's Services.

- 3.5 The Department will conduct all or part of the required sampling and testing during construction of the Project. In particular, sampling, testing and inspection for the work covered by Divisions 2 and 3 of the CSI's Standard 16 Divisions of Project Specifications. If the Department is unwilling or unable to perform part or all of the required sampling and testing then the Department will select a testing laboratory to perform all remaining tests during construction, and will contract for and pay for all such testing services.
- 3.6 The Department shall provide record construction documents of existing buildings or facilities for renovation or addition projects when those are available.

ARTICLE 4

CONSTRUCTION BUDGET (AFC)

- 4.1 The Construction Budget is the amount of funds Available For Construction (AFC) of the Project as fixed by the Department and stated in the Contract.
- 4.2 The Designer shall be responsible for designing the project so that the base bid does not exceed the funds Available for Construction. The use of any alternate bids must be approved by the Department.
- 4.3 At the completion of the Program Completion Phase, as stated hereinafter in Article 7, the Designer shall determine whether the funds Available for Construction are realistic for the project when compared with the Completed Program. At this point, or at any other submissions of Probable Construction Cost by the Designer, if such Probable Construction Cost is in excess of funds available (AFC), the Department shall have the option to:
- (1) Instruct the Designer to revise the program to be within the funds available for construction; such program revisions to be done without additional compensation to the Designer, except as provided in Article 7.3.4, hereinafter;
 - (2) Provide additional funds to increase the Funds Available for Construction (AFC); or
 - (3) Abandon or suspend the project.
- 4.4 When the lowest bona fide Base Bid exceeds the amount Available for Construction, the Department shall have the option to (1) have the Designer, without additional compensation, modify the Construction Documents as required in order to rebid the project to be within the amount Available for Construction, (2) provide additional funding towards the Construction Contract, or (3) abandon the project.

- 4.4.1 The lowest bona fide Base Bid is defined as the lowest Base Bid submitted by a Contractor, and not withdrawn in accordance with LSA-R.S. 48:252 et seq and the 2006 Edition of the DOTD Standard Specifications for Roads and Bridges, Part 1.
- 4.5 When the lowest bona fide bid is below the amount available for construction and the designer has reduced the original program scope to reduce costs, and the lowest bona fide bid is less than 90% of the available funds for construction, the Department shall have the option to have the Designer, without additional compensation, modify the Construction Documents as required to restore requirements of the program that were eliminated to reduce cost.

ARTICLE 5

COMPENSATION

Compensation to be paid to the Designer for services and reimbursable expenses shall be as follows:

- 5.1 The fee for Basic Services, as described in Article 7 hereinafter, shall be calculated as the product of the fee percentage, adjusted for inflation, and the amount Available for Construction (AFC), adjusted for inflation. The fee percentage shall be computed by the formula:

$$\text{FEE PERCENTAGE} = \frac{46.10}{\text{Log (AFC (1975 BCI/Current BCI))}}$$

The fee shall be computed by the following formula:

$$\text{FEE} = \text{FEE PERCENTAGE (AFC(1975 BCI/CURRENT BCI)(CURRENT CPI/1975 CPI))}$$

Where "BCI" = Building Cost Index as published by Engineering News Record and "CPI" = Consumer Price Index as published by U.S. Department of Labor, Bureau of Labor Statistics.

Since the annual average, computed in December, of the BCI and CPI is used, fee calculations are based upon the most current calendar year average of both indices. Should fee modifications occur during the course of the project, the BCI and CPI index factors used to calculate the original fee shall be used. If a project, through no fault of the Designer, is inactive for more than 24 months, the current BCI and CPI index factors shall be applied to the project once re-activated.

- 5.2 Compensation to be paid to the Designer shall be appropriately modified for certain projects as follows:
 - 5.2.1 Simple (.85 of basic compensation), to be determined by the Department – single use projects generally of utilitarian character without complication or detail. Buildings with a high degree of repetition may be included in this classification.

- 5.2.2 Average (1.00 of basic compensation), to be determined by the Department – projects of conventional character requiring normal attention to design and detail, including complete mechanical and electrical systems.
- 5.2.3 Medium Complex (1.1 of basic compensation), to be determined by the Department – projects of special character and/or function requiring an above average level of skill in design and containing more than ordinary requirements of scientific, mechanical and electrical equipment.
- 5.2.4 Complex (1.15 of basic compensation), to be determined by Owner – projects of highly specialized design character and function requiring a high degree of design skill and requiring extensive, or special scientific, electronic, mechanical and electrical equipment and design expertise.
- 5.3 The Department may evaluate the scope, function, complexity, image and context of the project and adjust modifiers listed above.
- 5.3.1 A *Renovation Factor* of up to 1.25, to be established and set by the Department for each individual project, will be multiplied by the fee percentage to arrive at the Fee for renovation projects, when determined by the Department to be justified. This Fee shall include verifying existing conditions and/or any other additional work incidental to renovation projects. The Renovation Factor will be set in proportion to the additional work anticipated by the Department. Simple building additions will receive lower factors than full building renovations. The Renovation Factor will not be applied to reproofing projects, except in unusual circumstances.
- 5.3.2 On roofing projects, an addition may be made to the Basic Fee for full time inspection services during construction.
- 5.3.3 *Duplicated Work Factor* shall be subject to negotiation between the Department and Designer on an individual project basis.
- 5.3.4 *Multiple Contracts*: If the Department determines that the best interest of the Project is served by bidding and constructing the Project under two or more separate contracts, the fee shall be established for each portion by application of the formula in 5.1 above.
- 5.3.5 If a project consists of more than one element, to be bid and constructed under one contract, the AFC to be used in computing the fee under the formula in 5.1 above shall be the sum of the AFC's of each element.
- 5.3.6 *Prefabricated Buildings*: A fee to be established and set by the Department for each individual project, not to exceed that stated in 5.1 above.
- 5.4 Payment to the Designer for Additional Services, defined in Article 7.3, shall be made on the basis of Designer's Direct Personnel Expense for performing such services multiplied by a factor of 3.0.
- 5.4.1 Direct Personnel Expense is defined as the normal straight-time DOTD reasonable audited salary rates of all the Designer's personnel engaged in the Project. This shall also include the direct salaries of Designer's Consultants involved in the additional services.

- 5.4.2 Designer shall prepare change orders caused by errors or omissions of the Designer without additional compensation. If the error or omission results in damage to the Department, the Designer may be required to pay for the Construction Cost of such change orders or a portion thereof, as determined by Department.
- 5.4.3 Preparation of documents required for change orders for any cause shall not be started without Department's prior written approval.
- 5.5 *Reimbursable Expenses* are in addition to the compensation for Basic and Additional Services and include actual expenditures made by the Designer, his employees or his professional consultants in the interest of the project as directed and authorized by the Department in writing prior to their incurrence.
- 5.5.1 The Department shall reproduce or pay for the cost of printing Construction Documents for the Department's use. The Designer shall pay for the cost of reproducing all construction documents necessary for regulatory agencies approvals.
- 5.6.1 Designer will be paid for prolonged contract administration and inspection of construction should the contract time, as may be extended, be exceeded due to no fault of the Designer and liquidated damages are recommended by the Designer and approved by the DOTD Project Engineer. The amount of such payment to the Designer shall be computed by dividing 20% of the basic total fee by the number of days of construction time, as extended, and multiplying by the number of days of assessed liquidated damages.
- 5.6.2 Liquidated Damages: When the Designer exceeds the established time schedule, as described in Article 3.3.1(4), including any extensions of time approved by the Department, then the amount of the fee shall, as liquidated damages, be reduced by an amount to be determined by the Department for each working day past the original or extended date that the Designer has not delivered all Construction Documents to the Department complete, coordinated and ready to bid. Completeness will be determined by the Department as described in Article 6.1 and Article 7.1.4.

ARTICLE 6

PAYMENTS TO THE DESIGNER

Payments on account of Designer's Services shall be made as follows:

6.1 Basic Services

- (1) Upon satisfactory completion of all Basic Services for each phase as described in Article 7, payment for the following phases of the Designer's services will be made up to the following cumulative percentages of the Designer's fixed compensations:

	Phase %	Cumulative %
Program Completion Phase	5%	5%
Schematic Design Phase	10%	15%
Design Development Phase	15%	30%
Construction Documents Phase	30%	60%
Bidding and Contract Phase	5%	65%
Construction Phase	30%	95%

Construction Close Out Phase	5%	100%
Total	100%	100%

- (2) Monthly in proportion to the Contractor's Estimate for Payment for the following phase: Construction Phase 95%
- (3) Upon satisfactory completion and furnishing required documents to the DOTD for the following phase: Construction Close-Out Phase 100%

Payments to the Consultant for services rendered shall be made monthly based on a certified invoice directly proportional to the percentage of completed work for each Phase. The monthly progress schedule shall: a) show in detail the status of the work; b) be subdivided into appropriate Phases with estimated percentages for each Phase, and c) be of a form and with a division of items as approved by DOTD. The allowable costs shall be in accordance with the cost principles and procedures set forth in 48 CFR 31, as appropriate.

The monthly invoice, reflecting the amount and value of work accomplished to the date of such submission less five percent for retainage, shall be submitted directly to the Project Manager. The retainage shall be released following completion of the work for each Phase, or upon written authorization by the DOTD's Chief Engineer. The invoice shall also show the total of previous payments-on-account to this Contract and the amount due and payable as of the date of the current invoice.

The original and five copies of the invoice shall be submitted to the Project Manager. The invoice must be signed and dated, as covered under the "Contract Identification" section of this Contract, by a principal member of the Consultant's firm.

Upon receipt and approval of each invoice, the DOTD shall pay the amount shown to be due and payable within 30 days, in accordance with Louisiana R.S. 48: 251.5.

ARTICLE 7

DESIGNER'S SERVICES

7.1 *Basic Services*

The Designer's Basic Services consist of the phases described below and include the normal Services of the Designer and normal complementary or supplementary Services of his Consultants, and any other services included in the Contract. Review Documents of each phase shall be submitted to the Department and to the User Agency for their approval. In addition, for the Construction Documents Phase, Review Documents shall be submitted to regulatory agencies designated by the Department or required by law, for their approvals. Designer shall not proceed to any subsequent phases until the requisite written approvals are received and until authorized by the Department in writing to so proceed. All statements of probable Construction Cost shall be adjusted to the anticipated bid date of the project.

The Designer shall be responsible for compliance with all applicable codes as required in accordance with LSA R.S. 40:1721 through 1724. All items not specifically covered by

codes shall be designed in accordance with the standards established by accepted professional groups or by industry standard for that specific item of work.

7.1.1 Program Completion Phase

- (1) After the initial pre-design conference the Designer shall meet and work with the Department to determine more detailed program requirements for the project and shall refine and complete the program in a form acceptable to the Department.
- (2) The Designer shall determine whether the funds Available for Construction are realistic for the project when compared with the completed program, as described in Article 4.3.
- (3) The Completed Program shall be submitted to the Department for their written approval, and thereafter, only the Department shall have authority to alter the Program. Any authorization by the Department to alter the Completed Program shall be in writing.
- (4) The Designer may be required to obtain one or more proposals from registered land surveyors and geotechnical engineers when required for the Project and recommend to the Department for their approval. The Department may provide these services in coordination with the Designer or may contract directly for such services.
- (5) The Designer shall finalize the Time Schedule as described in Article 3.3.1(4), for the Department's approval.

7.1.2 Schematic Design Phase

- (1) Based on the approved Completed Program, funds Available for Construction, Site Location and Time Schedule, the Designer shall prepare Schematic Design Documents in such format and detail as required by the Department, consisting of drawings, outline specifications and other documents illustrating the general scope, scale and relationship of the Project components for the written approval of the Department. Specific documentation shall be in accordance with Article 3 for this phase as listed in AIA Document B163 Standard Form of Agreement between DOTD and the Architect for Designated Services, 1998 or latest edition, as applicable to this project, except that no study model shall be required, but a sketch perspective will normally be required.
- (2) The Designer shall submit to the Department a Statement of Probable Construction Cost based on current area, volume or other unit costs method.
- (3) An analysis of requirements of the Louisiana Code for State Owned Buildings as they relate to this project shall be prepared by the Designer and submitted to the Department for review and approval. It shall be the responsibility of the Designer to verify (with the DOTD, Facility Planning and Control, the State Fire Marshal, and the Department of Health and Hospitals) the latest edition of the codes and standards in effect for use on this project.

- (4) The Designer may be required to participate and assist the Department in obtaining the required Environmental Clearances for the Project.

7.1.3 *Design Development Phase*

- (1) Based on the approved Schematic Design Documents and any adjustments authorized by the Department in the Program or the funds Available for Construction, the Designer shall prepare, for approval by the Department, Design Development Documents consisting of drawings, expanded outline specifications based on the Construction Specifications Institute (CSI) format, and other documents to fix and describe the size and character of the entire project as to architectural, structural, mechanical and electrical systems, materials, and such other elements as may be required. Detail submittal requirements are described in the Instructions to Designers.
- (2) The Designer shall submit to the Department a Statement of Probable Construction Cost based on the current version of the Construction Specifications Institute format. This shall have back-up material and data in such format and detail as required by DOTD to support each of the Divisions.
- (3) The Designer shall submit a more detailed analysis of the codes required by the Louisiana Code for State Owned Buildings, consisting of, but not necessarily limited to, statements of (1) Classification of occupancy, (2) Classification of construction, (3) Code allowable area increase for exceptions. Special attention shall be given to Department of Natural Resources regulations concerning requirements for pipe lines.
- (4) A preliminary Energy Conservation Analysis for the Project shall be prepared by the Designer and submitted to the Department for review and approval. The requirements of this analysis shall be as detailed in the "Instructions to Designers", referred to hereinbefore.

7.1.4 *Construction Documents Phase*

- (1) Based on the approved Design Development Documents and any further adjustments in the scope or quality of the Project or in the Funds Available for Construction, authorized by the Department, the Designer shall prepare for written approval by the Department and other State Regulatory agencies as required by law, the following documents bearing the Designer's seal and those of his consultants, all sufficiently complete and clear to define the quantity and quality of the work to bid and build the Project:
 - (a) Working Drawings – dimensioned plans, elevations, sections, details and schedules of all architectural, landscaping, civil, structural, mechanical and electrical work in the Project in general conformity with Chapter 12, or latest Edition, of the AIA Handbook of Professional Practice with the exception of the sections entitled "Reproduction" and "Ownership".
 - (b) Technical Specifications – of the materials, processes or systems to be incorporated in the work, using the format of the Construction Specifications Institute. The Designer shall work

with the Department's Contracts and Specifications Unit to facilitate substituting DOTD's Standard and Supplemental specifications for requirements, processes, work and materials covered under Divisions 1, 2 and 3 of CSI's Standard Division format where applicable. State law and Federal requirements prohibits the Designer from closing specifications on any item in the specification except as provided for in R.S. 38:2290-2296 and in R.S. 38:2290(A). Any reason for closing specifications, as provided for by Federal regulations or state law, shall be brought to the attention of the Department in writing for review. Additional requirements for specifications are contained in the "Instructions to Designers" documents which will be furnished to the Designer.

- (c) Bidding and Construction Contract Forms – the Department will combine the Designer produced Technical Specifications with DOTD's Standard Specifications, Supplemental Specifications, Special Provisions and Bid forms to produce the Construction Proposal. These documents will be reproduced at the Department's expense. The Designer shall consult with the Department to determine if a Prevailing Wage Determination from the Secretary of Labor should be included with the Documents and obtain one if necessary.
- (2) The Designer shall submit to the Department an updated Statement of Probable Construction Cost based on the Construction Specification Institute format with back-up material as described in 7.1.3 above.
- (3) The Designer shall update and verify the Energy Conservation Analysis prepared in the Design Development Phase.
- (4) The Designer shall submit one bound copy of all design calculations on the Project for the Department's files.

7.1.5 Bidding and Contract Phase

- (1) Upon receipt of all necessary written approvals, receipt of corrected and completed reproducible Plans and Technical Specifications, completion of all Construction Documents, and approval of the latest Statement of Probable Construction Cost, the Department will advertise the Project for bids. It is the Designer's responsibility to have approvals which have not expired or will not be expired by the time of anticipated contract award.
- (2) The Department shall be solely responsible for the furnishing and distribution of copies of Bidding Documents. The Designer shall not distribute any Project document to any potential bidder or other part (except permit or regulatory agencies) without written consent of the Department.
- (3) The Designer shall be responsible for evaluating prior approval requests for substitution of materials, products and equipment required by the applicable statutes and Department procedures.

- (4) The Designer shall prepare and submit to the Department all addenda related to the technical specifications and plans, in accordance with the Contract Documents, as required to modify or clarify the Construction Documents. All addenda or plan revisions are to be approved and distributed by the Department.
- (5) The Designer shall arrange and conduct a pre-bid conference in accordance with the Contract Documents.
- (6) It is not necessary that the Designer be present during the bid opening. The Designer may be required to assist the Department in evaluating the bid received, and make a recommendation to: 1) award the Construction Contract to the lowest responsible bidder; or 2) reject all bids.

7.1.6 *Construction Phase*

- (1) The Designer shall provide administration of the Construction Contract as set forth herein and in the Construction Documents, in conjunction and coordination with the Department's representative.
- (2) The Designer shall coordinate with the Department's representative(s) and make written recommendations for the Department's approval, for the type and number of tests required for the Project, as soon as the Construction Contract has been awarded. The Department may perform and conduct some of the required sampling, testing, and inspection services relative to CSI Divisions 1 and 2 and/or will select, contract for, and pay for all required testing services.
- (3) The Designer, as the primary representative of the Department during the Construction Phase, shall advise and consult with the Department's representative prior to issuing significant instructions to the Contractor. All significant instructions shall be issued through the Designer. The Designer shall have authority to act on behalf of the Department to the extent provided herein or as provided for in the Contract Documents unless otherwise modified in writing.
- (4) After the execution of the Construction Contract, the Department will issue a Notice to Proceed to the Contractor and will notify the Designer to arrange for and conduct a pre-construction conference. The Department shall furnish to the Contractor ten sets of the Construction Documents required to construct the project (see Article 5.5.1).
- (5) The Designer and his principal consultants shall visit the project as often as necessary to become generally familiar with the progress and quality of the work and to determine, in general, if the work is proceeding in accordance with the contract documents. Such visits by the Designer shall **not be less** than once per week when the work is in progress.

The Designer's principal consultants shall visit the project as often as necessary to become generally familiar with the progress and quality of the work related to their disciplines and to determine if that work is proceeding in general accordance with the contract documents. Such visits by the principal consultants shall not be less than an average of once per two weeks while the scope of their work is being performed. The Designer shall **not** assume the role of his principal

consultants in making site visits. In addition, project visits by both the Designer and his principal consultants shall be made at key points in the construction process.

On the basis of the Designer and principal consultants' on-site observations, he shall endeavor to guard the Department against defects and deficiencies in the work of the contractors. A written report of each visit to the project shall be prepared by the Designer and each of his principal consultants to the Project, and shall be mailed or hand delivered to the Department's representative and Contractor within seven (7) calendar days after each visit.

- (6) The Designer agrees that his designated representatives on the construction project shall be qualified by training and experience to make decisions and interpretations of the Construction Documents, and such interpretations shall be binding upon the Designer as if made by him. The Designer agrees that he will make every effort to consult with, coordinate with, and reach agreement with the Department's representative prior to making significant interpretations or decisions. Should the Designer and the Department's representative not be able to reach a consensus, the final decision or interpretation will be made by the DOTD's Chief Engineer. All such decisions shall be confirmed in writing immediately, with copies to the Department and Contractor, conditioned that such decisions and interpretations shall not modify the requirements of the contract documents. Modifications to the contract shall be made only through approved change orders processes according to DOTD procedures. If at any time the Department determines that the designated representative does not meet these qualifications, the Designer shall promptly replace the representative. This paragraph does not apply to the Designer's full-time project representative.
- (7) Based on observations at the site and on the Contractor's Applications for Payment, the Designer shall determine the amount owed to the Contractor. Partial estimates prepared and approved by the Designer with the assistance and approval of the Department's representative will be processed for payment to the contractor utilizing Department procedures. No Partial Estimate shall be issued until a schedule of values has been received from the Contractor. The approval of the partial Estimate by the Designer shall constitute a representation by the Designer to the Department, that the work has progressed to the point indicated and that to the best of the Designer's knowledge, information and belief, the quality of the work is in general accordance with the Contract Documents and that the Contractor is entitled to payment in the amount certified. By issuing a Partial Estimate, the Designer shall not be deemed to represent that he has made any examination to ascertain how and for what purpose the Contractor has used the monies paid on account of the Contract sum. The Designer shall process Partial Estimates as promptly as possible with copies to the Contractor, in accordance with DOTD's procedures.
- (8) The Designer shall instruct the Contractor to establish and conduct a regular schedule of monthly meetings, to be held on the job site each month throughout the construction period, and shall require attendance at the meetings by representatives of his principal consultants. The Department shall be notified of such meetings and may be represented. It shall be the principal purpose of these meetings, or conferences, to effect coordination, cooperation and assistance in

every practical way to the end of maintaining progress of the project on schedule and completing the project within the contract time.

- (9) The Designer shall prepare and submit to the Department and Contractor a monthly Status Report on the Project. The form of the Report shall be supplied to the Designer at the Pre-Construction Conference. The Designer's Status Report shall be submitted to the Department monthly along with the Contractor's Partial Estimate and the Designer's Statement for Professional Services.
- (10) The DOTD's Chief Engineer shall be the final interpreter of the requirements of the Contract Documents and the judge of the performance thereunder by the Contractor. The Designer shall advise and assist the Department in making decisions on all claims of the Contractor relating to the execution and progress of the Work, and on all other matters or questions related thereto.
- (11) The Designer shall have authority to reject work which does not conform to the Contract Documents. If the Designer considers it necessary or advisable to insure the proper implementation of the intent of the Contract Documents, he shall request the Department to authorize special inspection or testing of any work in accordance with the provisions of the Contract Documents, whether or not such work is then fabricated, installed or completed.
- (12) The Designer shall promptly review shop drawings, samples and other submissions of the Contractor only for conformance with the design concept of the Project and for compliance with the information given, and the design concepts expressed, in the Contract Documents. The Designer shall maintain a record of submittals and copies of submittals supplied by the Contractor. The Designer shall promptly respond to all requests for information from the Contractor within a reasonable time period.
- (13) Only with the authorization of the Department, shall the Designer prepare Change Orders. The Designer shall obtain from the Contractor his estimate of cost and time changes in accordance with the Contract Documents for the Change Order, review and approve same, and submit it to the Department for approval before any changes are made in the Contract. No additional compensation shall be due the Designer for preparation of Change Orders without the written prior approval for such compensation by the Department, except as described in Article 5.
- (14) The Designer shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the work, which are set forth in the construction contract as being the Contractor's rights and responsibilities under the Contract Documents.
- (15) LSA-R.S. 48:256.4 entitled Acceptance by the Department, defines the procedures to be followed in accepting a project, and gives the Department the discretion to make partial acceptance of a specified area of completed work or final acceptance upon full completion of all the work. Upon completion of the work, or prior to beneficial occupancy, as requested by the Department, the Designer shall conduct an inspection of the project with the Department

representative and the Contractor to determine if the Contractor's work is in general accordance with Contract Documents. The Designer shall prepare a list of items (punch-list) for correction or completion.

When the Department desires to accept on partial completion or for beneficial occupancy purposes, the Designer shall recommend such acceptance or occupancy. Upon satisfactory completion of the Punch-List items, the Designer and the Department's representative shall conduct a final inspection of the work. The Department will issue final acceptance of the project and such shall cause the final acceptance to be recorded. After the Contractor has furnished a clear lien certificate, the Designer shall prepare and submit the Final Estimate for contractor payment to the Department.

Upon recommendation of acceptance, the Designer shall receive, review and forward to the Department; guarantees, operation and maintenance manuals, keys, and other closing documents as required by the Contract Documents. Designer shall obtain a written receipt for these and forward same to the Department, together with copies of all guarantees and warranties.

7.1.7 Construction Close-Out Phase

After acceptance of the Project by the Department, the Designer shall prepare and furnish to the Department; (1) a Final Report in the appropriate format and containing information as required by the Department, and (2) two sets of Record Drawings (As-Built) prepared by the Designer, one set on reproducible film sepia and the other a set of prints made from the film sepia, for the Department's use and files. The Record Drawings shall be prepared on the basis of information furnished by the Contractor and the change orders, and shall be reviewed with and approved by the Contractor prior to submission. The Designer shall require in the specifications that the Contractor provides, as part of the Operations and Maintenance Manual, all materials identified in the specifications ultimately installed on the project.

Compliance with all of the above will constitute completion of the Designer's Basic Services for compensation purposes, however, the Designer shall be required to follow up on items to be corrected during the warranty period. The Designer shall arrange for and conduct an inspection of the Project prior to expiration of the one year warranty period, and shall be required to inform the Department and Contractor of any items to be corrected, and shall inspect the Project as required until the work is completed, without additional compensation.

7.2 Project Representation beyond Basic Services

7.2.1 If the Department and Designer agree that more extensive representation at the site is required than is described in Article 7.1.6, then the Designer shall provide one or more Project Representatives to carry out such responsibilities at the site.

7.2.2 Such Project Representatives shall be selected, subject to Department's approval, employed and directed by the Designer, and the Department shall compensate the Designer for such services in an amount equal to the approved direct salary of the Project Representative times a multiplier of 1.6. If, in the opinion of the Department, such

representatives are either negligent or unqualified to perform their duties, the Designer's representative shall be replaced promptly, without protest.

- 7.2.3 Through the services of such Project Representatives, the Designer shall endeavor to provide further protection for the Department against defects and deficiencies in the work.
- 7.2.4 The Department shall have the option of providing one or more Project Representatives at the site during construction, which shall be paid by the Department and shall be under his direction.

7.3 *Additional Services*

Additional Services, as required by the Department, shall be provided by the Designer only when authorized in writing by the Department, prior to performance of the services, and shall be compensated by the Department as described in Article 8. Additional services may include, but are not limited to, the following:

- 7.3.1 Providing design services relative to future facilities, systems and equipment which are not included to be constructed as part of the Project.
- 7.3.2 Providing interior design and other services required for the selection of furniture and furnishings, and movable equipment.
- 7.3.3 Preparing measured drawings when these are not available, or for archival research.
- 7.3.4 Providing extensive Program revisions during the Program Completion Phase when the necessity of such additional services is authorized in writing by the Department.
- 7.3.5 Providing any other special services not otherwise included in the Contract or not customarily furnished in accordance with generally accepted Designer's practice.

ARTICLE 8

CONTRACT CHANGES

- 8.1 Minor revisions in the described work shall be made by the Designer without additional compensation as the work progresses. Considerations for minor revisions have been included in the compensation computations. If the DOTD requires more substantial revisions or additional work which the Designer believes to warrant additional compensation, the Designer shall notify the DOTD in writing within 30 days of being instructed to perform such work. If the DOTD agrees that the required work is necessary and warrants additional compensation, the Contract shall be changed by a **Supplemental Agreement**.

The Designer shall not commence any additional work requiring extra compensation until the situation described above ("Contract Changes") has been executed and authority to proceed has been given by the DOTD.

ARTICLE 9

OWNERSHIP OF DOCUMENTS

- 9.1 All data collected by the Designer and all documents, notes, drawings, tracings, and files collected or prepared in connection with this work, except the Designer's personnel and administrative files, shall become and be the property of the DOTD. The DOTD shall not be restricted in any way whatsoever in its use of such material. The DOTD: (i) shall remove the title blocks, professional seals, logos and any other indicia of origination, ownership or responsibility from all contract documents; (ii) shall and does hereby agree to hold harmless and indemnify the Designer of and from any and all claims, actions, damages or costs, including court costs and attorney's fees, arising from or in any way related to such use of the contract documents, without regard to any alleged negligence or fault on the part of the Designer, in whole or in part.

No public news releases, technical papers, or presentations concerning this project may be made without the prior written approval of the DOTD.

ARTICLE 10

DELAYS AND EXTENSIONS

- 10.1 The Designer shall be given an extension of time for delays beyond its control or for those caused by tardy approvals of work in progress by various official agencies.

ARTICLE 11

PROSECUTION OF WORK

- 11.1 **General** – The Designer shall provide sufficient resources to insure completion of the project in accordance with the project scope and within the contract time limit.
- 11.2 **Disqualification** – The progress of the work shall be determined monthly, with the submission of an invoice and progress schedule to DOTD. For any phase, the project shall be considered **on schedule** if the percentage of the total work complete is equal to or greater than the percentage of contract time elapsed. If the ratio of percentage of work complete to percentage of time elapsed is less than .80, the Designer shall be notified in writing that he is delinquent and shall be subject to disqualification if the ratio falls to .75. Additional warnings may be issued at the discretion of the Project Manager. If the above ratio falls to .75, the Designer shall be notified in writing by the Project Manager that he is in a state of **Disqualification**. During the period of disqualification, the Designer shall not be awarded additional contracts nor shall he be approved as a sub consultant on contracts. The period of disqualification shall continue until the completed work on the contract is not delinquent by more than the foregoing percentages or until all work on the contract has been satisfactory completed

The overall project schedule includes the combined time allotted for all phases and parts of a contract, subject to any overlaps of concurrent activities. For the purposes of evaluating work progress, the elapsed time for any phase begins in accordance with the original project schedule, even though work on a phase may not commence on schedule. Should any phase of the work fail to commence on the original schedule because of

delinquencies in a previous phase or part, the elapsed time in the above ratio shall be measured from the time the phase would have begun had the previous phase been completed on schedule. Should any delays in progress be necessitated by circumstances outside of the Designer's control, it shall be the responsibility of the Designer to request an appropriate adjustment in contract time.

- 11.3 **Appeal of Disqualification** – If the Designer believes that the assignment of Disqualification status is unjust, he may submit a written appeal to the DOTD's Chief Engineer. Upon consideration of the arguments provided in the appeal and any other relevant information, the Chief Engineer shall render a binding decision.

ARTICLE 12

TERMINATION OR SUSPENSION

- 12.1 The terms of this Contract shall be binding upon the parties hereto until the work has been completed and accepted by the DOTD and all payments required to be made to the Designer have been made. However, this Contract may be terminated under any or all of the following conditions:

- 1) By mutual agreement and consent of the parties hereto.
- 2) By the DOTD as a consequence of the failure of the Designer to comply with the terms, progress or quality of work in a satisfactory manner, proper allowance being made for circumstances beyond the control of the Designer.
- 3) By either party upon failure of the other party to fulfill its obligations as set forth in this Contract.
- 4) By the DOTD due to the departure for whatever reason of any principal member or members of the Designer's firm.
- 5) By satisfactory completion of all services and obligations described herein.
- 6) By the DOTD giving 30 calendar days notice to the Designer in writing and paying compensation due for completed work.

Upon termination of this Contract, the Designer shall deliver to the DOTD all plans and records of the work compiled to the date of termination. The DOTD shall pay in full for all work accomplished up to the date of termination, including any retained percentage earned to date.

If for any reason, the DOTD wishes to suspend this Contract, it may do so by giving the Designer 30 days written notice of intent to suspend. The Designer shall, at expiration of the 30 days from the date of the notice of intent to suspend, stop all work on the Project. Work shall resume no later than 30 days after the DOTD provides the Designer with a written notice of intent to resume work.

The Designer shall not have the authority to suspend work on this Contract.

ARTICLE 13

INSURANCE REQUIREMENTS

- 13.1 Insurance – Prior to advertising for bids, the Designer shall furnish to the Department proof of coverage for the following:
- 13.1.1 Comprehensive/General Liability with minimum limits of \$500,000 per accident/occurrence
- 13.1.2 Comprehensive Automobile Liability Insurance with minimum limits of \$300,000 per accident/occurrence.
- 13.1.3 The Designer is reminded that he is responsible for providing Workmen's Compensation coverage as statutorily required.
- 13.1.4 Professional Liability (E&O) as follows:

<u>Minimum Limits of Liability</u>	<u>Construction Cost</u>
\$250,000	Up to \$1,500,000
\$500,000	\$1,500,000 up to \$3,500,000
\$750,000	\$3,500,000 up to \$5,000,000
\$1,000,000	\$5,000,000 up to \$10,000,000
To be determined by DOTD	Over \$10,000,000

No deductible shall be in excess of five percent (5%) of the amount of the policy. If the deductible is in excess of \$10,000 then the policy shall be written with first dollar defense coverage endorsement. In the event of a claim against this policy, the Designer shall maintain limits of liability sufficient to meet the above insurance requirements.

ARTICLE 14

QUALITY CONTROL/QUALITY ASSURANCE

- 14.1 The DOTD requires the Designer to develop a Quality Control/Quality Assurance program or adopt DOTD's program; in order to provide a mechanism by which all construction plans can be subject to a systematic and consistent review. The Designer must ensure quality and adhere to established design policies, procedures, standards and guidelines in the preparation and review of all design products. The DOTD shall provide limited input and technical assistance to the Designer. The Designer's plans shall meet or exceed DOTD's Construction Plans Quality Control / Quality Assurance Manual and EDSM No. I. 1.1.24 on Plan Quality. The Designer shall transmit plans with a DOTD Quality Control/Quality Assurance Checklist, Documentation Manual for Project Delivery, and a certification that the plans meet the DOTD's quality standards.

ARTICLE 15

INDEMNITY

- 15.1 The Designer agrees to indemnify and save harmless the DOTD against any and all claims, demands, suits, and judgments of sums of money (including attorney's compensation and cost for defense) to any party for loss of life or injury or damage to persons or properties arising out of, resulting from, or by reason of, any negligent act, or omissions by the Designer, its agents, servants, or employees while engaged upon or in connection with the services required or performed by the Designer hereunder.

ARTICLE 16

ERRORS AND OMISSIONS

- 16.1 It is understood that all other work required of the Designer under Contract shall meet the standard requirements as to general format and content, and shall be performed to the satisfaction and approval of the DOTD. The DOTD's review, approval, acceptance of, or payment for the services required under this Contract shall not be construed to operate as a waiver of any of the DOTD's rights or of any causes of action arising out of or in connection with the performance of this Contract.

The Designer shall be responsible for the professional quality and technical accuracy of all designs, drawings, specifications, and other services furnished by the Designer. Ideally, errors or substandard work shall be revealed during normal work reviews. In such cases, the work should be returned for correction and payments withheld until delivery of an acceptable product. The Designer shall, without additional compensation, also correct or revise any deficiencies discovered subsequent to final acceptance by the DOTD in its designs, plans, drawings, specifications or other services, resulting from any negligent act, or omissions by the Designer. If the project schedule necessitates that the DOTD's staff make corrections due to oversight, errors or omissions by the Designer, the Designer shall be responsible for reasonable cost incurred by the DOTD to make the corrections. The Designer shall be charged the actual payroll cost for making such corrections plus the applicable overhead cost not to exceed the allowable overhead for the Designer's firm for this Contract. In addition to costs that may be necessary to make corrections to the plans, the Designer (or his insurer) shall be responsible for costs to correct design errors during construction. This cost to be recovered shall include the administrative cost of processing the Change Order due to design errors and omissions.

A cost recovery process to assess the administrative costs associated with moving the letting date or issuing addenda to the plans/proposal for oversights, errors and or omissions, caused by the Designer shall be charged to the Designer. This cost shall cover the actual payroll cost, cost of a new advertisement and applicable overhead cost not to exceed the allowable overhead for the Designer's firm for this Contract.

ARTICLE 17

CLAIM FOR LIENS

- 17.1 The Designer shall hold the DOTD harmless from any and all claims for liens for labor, services or material furnished to the Designer in connection with the performance of its obligations under this Contract.

ARTICLE 18

COMPLIANCE WITH LAWS

- 18.1 The Designer shall comply with all applicable Federal, State and Local laws and ordinances, as shall all other employed by it in carrying out the provisions of this Contract. Specific reference is made to Act No. 73 of 1950 of the State of Louisiana, an act to regulate the practices of engineering and land surveying.

ARTICLE 19

COMPLIANCE WITH CIVIL RIGHTS ACT

- 19.1 The Designer agrees to abide by the requirements of the following as applicable: Title VI and VII of the Civil Rights Act of 1964, as amended by the Equal Opportunity Act of 1972, Federal Executive Order 11246; the Federal Rehabilitation Act of 1973, as amended; the Vietnam Era Veteran's Readjustment Assistance Act of 1974; Title IX of the Education Amendments of 1972; the Age Act of 1972, and the Designer agrees to abide by the requirements of the Americans with Disabilities Act of 1990.

The Designer agrees not to discriminate in its employment practices, and shall render services under this Contract without regard to race, color, age, religion, sex, national origin, veteran status, political affiliation, or disabilities.

Any act of discrimination committed by the Designer, or failure to comply with these statutory obligations when applicable shall be grounds for termination of this Contract.

ARTICLE 20

DISPUTES

- 20.1 Any dispute concerning a question of fact in connection with the work not disposed of by agreement between the parties hereto shall be referred in writing to the DOTD's Chief Engineer or his duly authorized representatives for determination, whose decisions in the matter shall be final and conclusive on the parties to this Contract.

ARTICLE 21

PROGRESS INSPECTIONS

- 21.1 During the progress of the work, representatives of the DOTD and other interested parties when so named herein shall have the right to examine the work and may confer with the Designer thereon. In addition, the Designer shall furnish, upon request, prints of any

specific item of his work for DOTD inspection. The Designer shall confer with the DOTD and such other parties, and from time to time may submit sketches illustrating significant features of the work for interim approval.

ARTICLE 22

COVENANT AGAINST CONTINGENT FEES

- 22.1 The Designer warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Designer, to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Designer, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty the DOTD shall have the right to annul this Contract without liability, or, in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

No legislator or person who has been certified by the Secretary of the State as elected to the legislature or member of any board or commission, members of their families or legal entities in which the legislator, person or board or commission member has an interest, may derive any benefit from this Contract or share in any part of the Contract in violation of the Louisiana Code of Governmental Ethics (LSA-R.S. 42:1101, et seq.).

ARTICLE 23

SUBLETTING, ASSIGNMENT, OR TRANSFER

- 23.1 This Contract, or any portion thereof, shall not be transferred, assigned, or sublet without the prior written consent of the DOTD. In the event the Designer does elect to sublet any of the services required under this Contract, it must take affirmative steps to utilize Disadvantaged Business Enterprises (DBE) as sources of supplies, equipment, construction, and services. Affirmative steps shall include the following:
- (1) Including qualified DBE on solicitation lists.
 - (2) Assuring that DBE are solicited whenever they are potential sources.
 - (3) When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum DBE participation.
 - (4) Where the requirement permits, establishing delivery schedules which shall encourage participation by DBE.
 - (5) Using the services and assistance of the Small Business Administration, the Office of Disadvantaged Business Enterprise of the Department of Commerce, and the Community Services Administration as required.

Also, the Designer is encouraged to procure goods and services from labor surplus areas.

ARTICLE 24

DISADVANTAGED BUSINESS ENTERPRISES (DBE) REQUIREMENTS

- 24.1 It is the policy of the Federal Highway Administration that DBE as defined in 49 CFR 26, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds. Consequently, the DBE requirements of 49 CFR 26 applies to this Contract.

The Designer agrees to ensure that DBE, as defined in 49 CFR 26, have the maximum opportunity to participate in the performance of this Contract and any subcontracts that may be let. In this regard, the Designer shall take all necessary and reasonable steps in accordance with 49 CFR 26 to ensure that DBE have the maximum opportunity to compete for and perform services relating to this Contract. Furthermore, the Designer shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract.

Failure to carry out the above requirements shall constitute a breach of this Contract. After proper notification by the DOTD, immediate remedial action shall be taken by the Designer as deemed appropriate by the DOTD or the Contract shall be terminated. The option shall rest with the DOTD.

The above requirements shall be physically included in all subcontracts entered into by the Designer.

ARTICLE 25

COST RECORDS

- 25.1 The Designer and its principal consultants shall maintain all books, documents, papers, accounting records and other evidence pertaining to cost incurred relative to this project. Costs shall be in accordance with 48 CFR 31 of the (FARS), as modified by the DOTD's audit guidelines, and which are incorporated herein by reference as if copied in extensor. The FARS is available for inspection through www.transportation.org. Records shall be retained until such time as an audit is made by the DOTD or the Designer is released in writing by the DOTD's Audit Director, at which time the Designer may dispose of such records. The Designer shall, however, retain such records for a minimum of five years from the date of payment of the last estimate under this Contract or the release of all retainage for this Contract, whichever occurs later, for inspection by the DOTD and/or Legislative Auditor and the FHWA or General Accounting Office (GAO) under State and Federal Regulations effective as of the date of this Contract.

ARTICLE 26

ENDORSEMENT OF PLANS

- 26.1 The Designer shall endorse all plans prepared by it in the manner required by the DOTD.

ARTICLE 27

SUCCESSORS AND ASSIGNS

- 27.1 This Contract shall be binding upon the successors and assigns of the respective parties hereto.

ARTICLE 28

TAX RESPONSIBILITY

- 28.1 The Designer hereby agrees that the responsibility for payment of taxes on the payments received under this Contract shall be Designer's obligation.

ARTICLE 29

EXTENT OF AGREEMENT

- 29.1 The Contract, this Manual, and the Instructions to Designers represent the agreement between the Department and the Designer. The Contract may be amended only by written instrument signed by the Department and the Designer.

ARTICLE 30

GOVERNING LAW

- 30.1 The Contract shall be governed by the laws of the State of Louisiana. The Nineteenth Judicial Court in and for the Parish of East Baton Rouge, State of Louisiana shall have sole jurisdiction in any action brought under this contract.

ARTICLE 31

REFERENCES

- 31.1 All designs and engineering documents shall be prepared in accordance with the latest editions, supplements and revisions of the following DOTD manuals, when applicable.
- 1) AASHTO Standards, ASTM Standards for DOTD Test Procedures
 - 2) DOTD Location and Survey Manual
 - 3) DOTD Roadway Design Procedures and Details
 - 4) DOTD Hydraulics Manual
 - 5) DOTD Standard Specifications for Roads and Bridges
 - 6) Manual of Uniform Traffic Control Devices (Millennium Edition)
 - 7) DOTD Traffic Signal Design Manual
 - 8) National Environmental Policy Act (NEPA)
 - 9) National Electric Safety Code
 - 10) DOTD Environmental Impact Procedures (Vols. I-III)
 - 11) Policy on Geometric Design on Highways and Streets
 - 12) Construction Contract Administration Manual
 - 13) Materials Sampling Manual
 - 14) DOTD Bridge Design Manual

- 15) Consultant Contract Services Manual
- 16) The 2006 Louisiana Standard Specifications for Roads and Bridges
- 17) Guide for Development of Rest Areas on Major Arterials and Freeways, Third Edition (AASHTO)
- 18) International Building Code
- 19) State Fire Marshal Code (NFPA 101)
- 20) State Plumbing Code
- 21) Americans with Disabilities Act Accessibility Guidelines (ADAAG)
- 22) Geotechnical Engineering Services Document